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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/237,194	01/26/1999	STEPHEN JAMES BROWN	HERO113397	9517

25315 7590 11/19/2003

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EXAMINER

KALINOWSKI, ALEXANDER G

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 11/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/237,194

Applicant(s)

BROWN, STEPHEN JAMES

Examiner

Alexander Kalinowski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-120 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 34-120 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 34-120 are presented for examination. Applicant filed an amendment on 9/8/2000 amending claim 25. Applicant further filed a request for continued prosecution application on 2/28/01. A preliminary amendment was not filed with the request for continued prosecution application. Therefore, previously filed claims 25-33 were not amended and remain pending. Applicant further filed a request for suspension of prosecution for six months on 3/28/2001. The request for suspension was granted. The period for suspension of prosecution expired on 4/9/2003. Applicant filed a request for continued examination on 9/9/2005. Applicant also filed an amendment on 9/9/2005 canceling claims 25-33 and adding new claims 34-120. In light of Applicant's cancellation of the previously pending claims, the Examiner withdraws the outstanding rejection of the previously pending claims and establishes new grounds of rejection based on 35 USC 112, 35 USC 101, and 35 USC 103 for newly added claims 34-120 as set forth in detail below.

Oath/Declaration

2. The Examiner acknowledges receipt of a supplemental declaration received 9/9/2003. The supplemental declaration has been approved and entered into the application file.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claims 48 and 91 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "and/or" is indefinite since it cannot be determined if the claimed report includes graphs and icons or if the claimed report includes graphs or icons. For purposes of applying prior art, the Examiner will interpret the phrase and/or to mean or.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 34-41, 45-50, 52, 54-59, 61-63, 65, 66, 69-75, 77-84, 88-93, 95, 97-102, 104-106, 108, 109, 112-118 and 120 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu et al., Pat. No. 4,803,6125 (Fu) in view of Lee, Pat. No. 4,838,275.

As to Claims 34-41, 45, 49, 50, 54-56, 59, 62, 63, 65, 66, 69-75, Fu discloses a networked health-monitoring system (see Fig. 1), comprising:

a plurality of remote patient sites (see Fig. 1, unit 60), each site including at least one display (i.e. unit 68)(col. 5, lines 53-58) ;

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a data management unit configured to facilitate collection of patient health related data (i.e., event table and CPU 64)(col. 10, lines 1-14 and lines 28-61);

a memory (i.e. unit 80)(see Fig. 2); and

stored program instructions for use in generating health-monitoring related information on the display (i.e. display unit 68 and software of the home unit)(col. 5, lines 56-57, col. 8, line 17 and col. 12, lines 1-24)

at least one central server connectable for communication with the data management unit at the patient sites (see Fig. 1).

Fu does not explicitly disclose

at least one health care professional computer remotely located from and configured for signal communication with the central server to receive at least one report based on the patient health-related data collected at the remote patient sites.

However, Lee discloses at least one health care professional computer remotely located from and configured for signal communication with the central server to receive at least one report based on the patient health-related data collected at the remote patient sites (i.e. unit 118a)(see Fig. 1, col. 11, lines 54-56 and col. 13, lines 42-47). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include at least one health care professional computer remotely located from and configured for signal communication with the central server to receive at least one report based on the patient health-related data collected at the remote patient sites as disclosed by Lee within Fu for the motivation of providing detailed home medical

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surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

As to Claim 46, Fu does not explicitly disclose The system of claim 34, wherein the report is standardized.

However, Lee discloses wherein the report is standardized (col. 17, lines 20-40). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the report is standardized as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

As to Claim 47, Fu does not explicitly disclose the system of claim 34, wherein the system is configured to allow a health care professional to select which of a plurality of standardized reports is received.

However, Lee discloses wherein the system is configured to allow a health care professional to select which of a plurality of standardized reports is received (col. 13, lines 5-15). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the system is configured to allow a health care professional to select which of a plurality of standardized reports is received as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

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As to Claim 48, Fu does not explicitly disclose the system of claim 34, wherein the report includes graphs and/or icons.

However, Lee discloses wherein the report includes graphs and/or icons (col. 13, lines 5-16). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the report includes graphs and/or icons as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

As to Claim 52, Fu does not explicitly disclose the system of claim 34, wherein the report includes displayed formatted statistical information.

However, Lee discloses wherein the report includes displayed formatted statistical information (col. 13, lines 12-17). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the report includes displayed formatted statistical information as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

As to Claim 57, Fu does not explicitly disclose the system of claim 55, wherein the message includes results of a test.

However, Lee discloses wherein the message includes results of a test (i.e. if there are no untoward signs, this is communicated to the patient)(col. 16, lines 39-43). It would have been obvious to one of ordinary skill in the art at the time of Applicant's

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invention to include wherein the message includes results of a test as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

As to Claim 58, Fu does not explicitly disclose the system of claim 55, wherein the message includes a diagnostic indication related to whether a test has proceeded in a normal fashion.

However, Lee discloses wherein the message includes a diagnostic indication related to whether a test has proceeded in a normal fashion (i.e. if there are no untoward signs, this is communicated to the patient)(col. 16, lines 39-43). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the message includes a diagnostic indication related to whether a test has proceeded in a normal fashion as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

As to Claim 61, Fu does not explicitly disclose the system of claim 55, wherein the message is from the health care professional computer.

However, Lee discloses wherein the message is from the health care professional computer (col. 16, lines 40-43).). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the message includes a diagnostic indication related to whether a test has proceeded in a

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normal fashion as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

As to claims 77-84, 88-93, 95, 97-102, 104-106, 108, 109, 112-118 and 120, the claims are similar in scope to claims 34-41, 45-50, 52, 54-59, 61-63, 65, 66, 69-75 and are rejected on the same basis.

7. Claim 42, 44, 85 and 87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu and Lee as applied to claims 34 and 77 above, and further in view of Beckers, Pat. No. 5,019,974.

As to Claim 42, Fu and Lee do not explicitly disclose the system of claim 41, wherein the handheld device is capable of displaying pictorial health-monitoring related information.

However, Beckers discloses wherein the handheld device is capable of displaying pictorial health-monitoring related information (see Fig. 2). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the handheld device is capable of displaying pictorial health-monitoring related information as disclosed by Beckers within Fu and Lee for the motivation of providing a patient with an individually tailored program of treatment (col. 1, lines 7-14)

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As to Claim 44, Fu and Lee do not explicitly disclose The system of claim 42, wherein the handheld device is capable of displaying animated health-monitoring related information.

However, Beckers discloses wherein the handheld device is capable of displaying animated health-monitoring related information (see Fig. 2). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the handheld device is capable of displaying animated health-monitoring related information as disclosed by Beckers within Fu and Lee for the motivation of providing a patient with an individually tailored program of treatment (col. 1, lines 7-14).

As to claims 85 and 87, the claims are similar in scope to claims 42 and 44 and are rejected on the same basis.

8. Claims 51, 53, 60, 64, 67 94, 96, 103, 107, 110, and 111 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu and Lee as applied to claims 34 and 77 above, and further in view of Kuch, Pat. No. 5,454,721.

As to Claims 51, 53, 60, 64, 67, and 68, Fu and Lee do not explicitly disclose The system of claim 34, wherein the system is configured to cause the presentation of at least one report on the display at a remote patient site.

However, Fujimoto discloses wherein the system is configured to cause the presentation of at least one report on the display at a remote patient (col. 4, lines 48-

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56). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the system is configured to cause the presentation of at least one report on the display at a remote patient site as disclosed by Fujimoto within Fu and Lee for the motivation of providing a medical system and apparatus which permits patients to check or measure the condition of a disease at home (col. 1, line 66 – col. 2, line 5).

As to claims 94, 96, 103, 107, 110, and 111, the claims are similar in scope to claims 51, 53, 60, 67, and 68 and are rejected on the same basis.

9. Claims 43 and 86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu and Lee as applied to claims 34 and 77 above, and further in view of Examiner's use of Official Notice.

As to Claim 43, Fu and Lee do not explicitly disclose The system of claim 40, wherein the memory is a program cartridge.

However, the Examiner takes official notice that it was well known in the computer arts to use program cartridges to program handheld devices. The motivation was to provide a simple and inexpensive means for providing computer programs that are popular or in demand by a number of users. . It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the memory is a program cartridge for the motivation stated above.

As to claims 86, the claim is similar in scope to claim 43 and is rejected on the same basis.

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10. Claims 76 and 119 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu and Lee as applied to claims 40 above, and further in view of Examiner's use of Official Notice.

As to Claim 76, Fu and Lee do not explicitly disclose The system of claim 34, wherein the healthcare professional computer receives the report after transmitting an authorization code to the server that identifies an associated healthcare professional as an authorized user.

However, the Examiner takes official notice that it was well known in the computer arts to use personal identification numbers (pin) to authorize users to access systems, programs and stored data on computers. The motivation for using pin numbers was to grant access to data or the computer system to authorized users only, particularly sensitive data or information such as patient medical data. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the healthcare professional computer receives the report after transmitting an authorization code to the server that identifies an associated healthcare professional as an authorized user within Fu and Lee for the motivation stated above.

As to claim 119, the claim is similar in scope to claim 76 and is rejected on the same basis.

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Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Kalinowski, whose telephone number is (703) 305-2398. The examiner can normally be reached on Monday to Thursday from 9:00 AM to 6:30 PM. In addition, the examiner can be reached on alternate Fridays.

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Joseph Thomas, can be reached on (703) 305-9588. The fax telephone number for this group is (703) 872-9306 (for official communications including After Final communications labeled "Box AF").

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th Floor, receptionist.



Alexander Kalinowski

Primary Examiner

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11/16/03